

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOCAL UNION NO. 40 OF THE INTERNATIONAL
ASSOCIATION OF BRIDGE, STRUCTURAL AND
ORNAMENTAL IRON WORKERS et al.,

Plaintiffs,

-v-

No. 12CV4854-LTS-MHD

CAR-WIN CONSTRUCTION INC.
et al.,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION

The Plaintiffs in this action – several local unions and related benefit funds – filed suit in June 2012 against Defendants Car-Win Construction, Inc. (“Car-Win”) and CRV Precast Construction, LLC (“CRV” and, collectively, “Defendants”). In their Complaint, Plaintiffs asserted numerous violations of a collective bargaining agreement between the parties, and claimed that they are owed the balance of a judgment entered against Car-Win in New York and New Jersey state courts. After lengthy delays in the litigation of this case precipitated by Defendant’s failure to accede to the discovery orders of Magistrate Judge Michael H. Dolinger, Plaintiffs have moved for the entry of a default judgment pursuant to Federal Rule of Civil Procedure 37(b)(2)(A)(vi). Plaintiffs also request injunctive relief in the form of an order requiring defendants to submit to an audit of their financial records from January 1, 2008, through the present, and an award of fees associated with an earlier motion for default judgment. Before the Court is the Report and Recommendation (the “Report”) of Magistrate Judge Dolinger, recommending that Plaintiff’s motion for a default judgment be granted, that a post-default inquest

be conducted, and that Plaintiffs' request for an audit be granted subject to temporal qualifications described within the Report. No objections to the Report have been filed.

When reviewing a report and recommendation, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.S. § 636(b)(1)(c) (LexisNexis 2012). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Service, Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (internal citations and quotation marks omitted)).

Having reviewed Magistrate Judge Dolinger's thorough and well-reasoned Report, to which no objection was made, the Court finds no clear error. Therefore, the Court adopts the Report in its entirety. Accordingly, Defendant CRV is hereby ordered to submit to an audit of its financial books and records for the period from January 1, 2008, to the present;

Defendant Car-Win is hereby ordered to submit to an audit of its financial books and records for the periods from May 24, 2010, through May 31, 2011, and from June 21, 2012, through the present; and

Plaintiffs' default judgment motion is granted as against each Defendant as to liability.

This matter is referred to Magistrate Judge Dolinger for the conduct of an inquest as to damages. This Order resolves Docket Entry Number 49.

SO ORDERED.

Dated: New York, New York
February 18, 2015

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge